

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Perry A. FREY and Frank J.  
RUZICKA


Title: DNA MOLECULES  
ENCODING BACTERIAL  
LYSINE 2,3-  
AMINOMUTASE

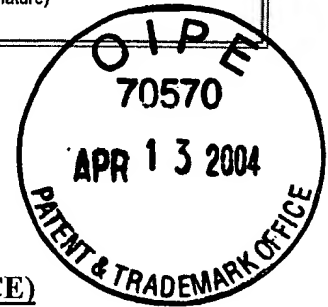
Appl. No.: 09/847,010

Appl. Filing Date: 05/01/2001

Examiner: Richard G. Hutson

Art Unit: 1652

<b>CERTIFICATE OF EXPRESS MAILING</b>	
I hereby certify that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office To Addressee" service under 37 C.F.R. § 1.10 on the date indicated below and is addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450.	
EV 383676996 US (Express Mail Label Number)	April 13, 2004 (Date of Deposit)
Joseph P. Meara (Printed Name)	
 (Signature)	



**REQUEST FOR CONTINUED EXAMINATION (RCE)**  
**TRANSMITTAL**

Mail Stop RCE  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. This RCE and the enclosed items listed below are being filed prior to the earliest of: (1) payment of the issue fee (unless a petition under 37 C.F.R. § 1.313 is granted); (2) abandonment of the application; or (3) the filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. §141, or the commencement of a civil action under 35 U.S.C. §145 or §146 (unless the appeal or civil action is terminated).

1. Submission required under 37 C.F.R. §1.114: (check items that apply)

a. Previously submitted:

- ☐ Please enter and consider the amendment/reply previously filed on \_\_\_\_.
- ☐ Please consider the Affidavit(s)/Declaration(s) previously filed on \_\_\_\_ but not considered.
- ☐ Please consider the arguments in the Appeal Brief or Reply Brief under 37 C.F.R. § 1.116 previously filed on \_\_\_\_.
- ☐ Other \_\_\_\_.
- b. Enclosed are:
- ☒ Amendment/Reply.
- ☐ Affidavit(s)/Declaration(s).
- ☐ Information Disclosure Statement.
- ☐ Form PTO-1449 with copies of \_\_\_\_ listed reference(s).
- ☐ Other .

Miscellaneous:

- ☐ Suspension of action of the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_ months.

The filing fee is calculated below:

	Claims as Amended	Previously Paid For	Extra Claims Present	Rate	Fee Totals
RCE Fee 1.17(e):				\$770.00	= \$770.00
Total Claims:	24	- 20	= 4	x \$18.00	= \$72.00
Independents	6	- 5	= 1	x \$86.00	= \$86.00
First presentation of any Multiple Dependent Claims:				+ \$290.00	= \$0.00
CLAIMS FEE TOTAL:					= \$928.00

☒ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:

<input checked="" type="checkbox"/>	Extension for response filed within the first month:	\$110.00	1	\$110.00
<input type="checkbox"/>	Extension for response filed within the second month:	\$420.00		\$0.00
<input type="checkbox"/>	Extension for response filed within the third month:	\$950.00		\$0.00
<input type="checkbox"/>	Extension for response filed within the fourth month:	\$1,480.00		\$0.00
<input type="checkbox"/>	Extension for response filed within the fifth month:	\$2,010.00		\$0.00
EXTENSION FEE SUBTOTAL:				\$110.00
EXTENSION FEE ALREADY PAID: -				\$0.00
EXTENSION FEE TOTAL				\$110.00
CLAIMS AND EXTENSION FEE TOTAL:				\$1038.00
<input checked="" type="checkbox"/>	Small Entity Fees Apply (subtract ½ of above):			\$519.00
<input type="checkbox"/>	Suspension of action requested under 37 C.F.R. § 1.103(c)			\$0.00
TOTAL FEE:				\$519.00

☒ Please charge Deposit Account No. 50-2350 in the amount of \$519.00. A duplicate copy of this transmittal is enclosed.

☐ A check in the amount of \$519.00 to cover the filing fee is enclosed.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350.

Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date Tuesday, April 13, 2004

FOLEY & LARDNER LLP  
Customer Number: 23524  
Telephone: (608) 258-4303  
Facsimile: (608) 258-4258

By Joseph P. Meara

Joseph P. Meara  
Attorney for Applicant  
Registration No. 44,932

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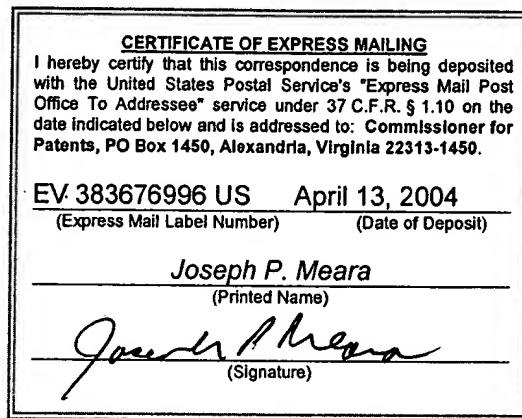
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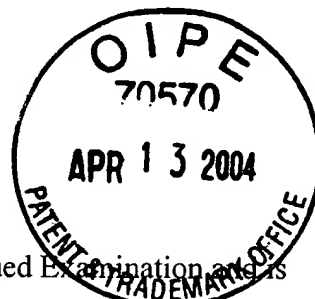
**SUBMISSION ACCOMPANYING REQUEST FOR CONTINUED  
EXAMINATION UNDER 37 CFR 1.114**

Mail Stop RCE  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This communication accompanies a Request for Continued Examination and is responsive to the Final Office Action dated January 12, 2004, concerning the above-referenced patent application. The three-month shortened statutory period for response to the Official Action was set to expire on April 12, 2004, and, with the acceptance of the accompanying petition and fee, the time for response is extended to May 12, 2004. Accordingly, Applicants believe that this response is timely filed.

No additional fee is believed to be due for this filing. Should any additional fee be due, the Patent Office is hereby authorized to charge such fees to deposit account No. 50-2350. Should no separate, or an incorrect, petition for an extension of time accompany this communication, applicants hereby petition for such extension under 37 C.F.R. §1.136 to make



submission of the papers submitted herewith timely and authorize payment of any such extensions fees to Deposit Account No. 50-2350. For the purpose of charging said deposit account, duplicates of pages 1, 2 and the signature page of this response are submitted herewith.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 3 of this document.

**Remarks/Arguments** begin on page 8 of this document.

Please amend the application as follows: